

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS – BROWNSVILLE DIVISION**

JENNIFER SCARBOROUGH,

Petitioner,

v.

LOZANO ET AL;

Respondents.

Civil Misc. Action No. 1:22-mc-00100

Judge Fernando Rodriguez, Jr.

RESPONDENTS' EXHIBIT 2

From: [Kirsten Fraser](#)
To: ["Maldonado, Amy"](#)
Subject: RE: Lozano, et al., v. John Does I-X, et al., Third Party Subpoena of Attorney Jennifer Scarborough
Date: Tuesday, September 6, 2022 11:46:06 AM
Attachments: [image001.png](#)
[2022_08_25_Fraser_Ltr to Scarborough.pdf](#)

Ms. Maldonado,

Regarding the scheduling of Ms. Scarborough's deposition, though she has had two weeks now to prepare for her September 12th, 2022 deposition, we are willing to move her deposition one week, to September 19th, 2022, to accommodate her vacation schedule.

As for the motion to quash, any such motion is baseless and we will oppose accordingly. Regarding privilege, I would direct you to the correspondence that we sent Ms. Scarborough prior to learning that she was represented by counsel. We sent this letter as soon as we were made aware that there are responsive documents in Ms. Scarborough's possession that may be privileged. As I'm sure you know, the law protects disclosure of privileged information and if Ms. Scarborough believes any documents in her possession are responsive, she simply needs to serve a privilege log per Fed. R. Civ. P. 45 so that we may evaluate those privilege claims.

Regarding undue burden, I'm unclear as to how a deposition that is directed at determining the extent of Ms. Scarborough's knowledge regarding the defamatory campaign being directed at my clients, along with her knowledge as to the identity of the defamers places an undue burden on Ms. Scarborough. We have not asked Ms. Scarborough to travel for the deposition, and instead have made accommodations to take the deposition where Ms. Scarborough is located. Regarding documents requested, counsel is always open to discussing scope if the volume of responsive documents in Ms. Scarborough's possession is indeed "overly burdensome."

And regarding relevance, we have knowledge that outside of the bar complaint you referenced, Ms. Scarborough has information that is directly relevant to determining the identities of the individuals who have defamed my clients.

I would happily meet and confer with your litigation colleague regarding the above. But as it appears there is no intent to resolve any discovery disputes extra-judiciously, as you have waited until the last possible day to raise these issues, then we will oppose any and all motions that seek to delay this deposition.

Regards,

Kirsten Fraser
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From: Maldonado, Amy [mailto:amaldonado@shumaker.com]

Sent: Tuesday, September 6, 2022 10:26 AM

To: Kirsten Fraser <kfraser@organlegal.com>

Subject: Lozano, et al., v. John Does I-X, et al., Third Party Subpoena of Attorney Jennifer Scarborough

Good morning, Ms. Fraser,

I am Of Counsel to Shumaker, Loop & Kendrick, LLP's immigration law practice. This e-mail is an informal notification as a courtesy that Shumaker, Loop & Kendrick, LLP will be representing Jennifer Scarborough with regard to the above matter.

A litigator in Shumaker, Loop & Kendrick, LLP's Columbus office will be sending you a formal letter and filing a Motion to Quash the Third Party Subpoena issued to Ms. Jennifer Scarborough. Ms. Scarborough's objections to the subpoena include but are not limited to relevance, undue burden, and privilege. As Plaintiff Lozano is aware, Ms. Scarborough filed a bar complaint against her in 2021 based on her marketing practices. Those marketing practices were so alarming to the immigration bar that the American Immigration Lawyers Association Ethics Committee issued the attached five-page advisory to its members.

In addition, Ms. Scarborough is out of town on vacation with limited to no internet/cell phone access (it is my understanding that she is camping during a long-planned vacation off the grid). My understanding is that she does not return to Texas until September 10, 2022. Are you amenable to rescheduling the deposition and request for document production after the Motion to Quash is ruled upon by the Court? If not, then we intend to file a motion to delay discovery. Would you have any objection to such a motion?

Thank you,
Amy Maldonado

Amy Maldonado

Of Counsel

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August 25, 2022

Via Email

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Re: Lozano, et. al. v. John Does I-X, et al. Subpoena for Documents

Dear Ms. Scarborough:

I have been made aware that you have communicated you have documents responsive to the subpoena that was served on you on August 23, 2022 in the above-captioned matter, and that you believe some of those documents are privileged documents exempt from production. The subpoena was served under Fed. R. Civ. P. 45. Fed. R. Civ. P. 45(e)(2), a copy of which was served with the subpoena, instructs that subpoenaed parties are permitted to withhold information under a claim of privilege. If information is withheld, the subpoenaed party is required to provide a "privilege log" that states what privilege you are asserting, and that describes "the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim." As you have indicated you have responsive documents subject to a privilege, you must include a privilege log with your production.

I look forward to meeting you on September 12th for your deposition.

Very truly yours,



Kirsten R. Fraser

